



Sen. Michael W. Frerichs

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1 AMENDMENT TO SENATE BILL 346

2 AMENDMENT NO. _____. Amend Senate Bill 346 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 changing Sections 1-10, 1-15.68, 20-25, 20-30, 20-43, 20-90,
6 25-15, and 50-39 and by adding Sections 1-15.63 and 1-35 as
7 follows:

8 (30 ILCS 500/1-10)

9 Sec. 1-10. Application.

10 (a) This Code applies only to procurements for which
11 contractors were first solicited on or after July 1, 1998. This
12 Code shall not be construed to affect or impair any contract,
13 or any provision of a contract, entered into based on a
14 solicitation prior to the implementation date of this Code as
15 described in Article 99, including but not limited to any
16 covenant entered into with respect to any revenue bonds or

1 similar instruments. All procurements for which contracts are
2 solicited between the effective date of Articles 50 and 99 and
3 July 1, 1998 shall be substantially in accordance with this
4 Code and its intent.

5 (b) This Code shall apply regardless of the source of the
6 funds with which the contracts are paid, including federal
7 assistance moneys. This Code shall not apply to:

8 (1) Contracts between the State and its political
9 subdivisions or other governments, or between State
10 governmental bodies except as specifically provided in
11 this Code.

12 (2) Grants, except for the filing requirements of
13 Section 20-80.

14 (3) Purchase of care.

15 (4) Hiring of an individual as employee and not as an
16 independent contractor, whether pursuant to an employment
17 code or policy or by contract directly with that
18 individual.

19 (5) Collective bargaining contracts.

20 (6) Purchase of real estate, except that notice of this
21 type of contract with a value of more than \$25,000 must be
22 published in the Procurement Bulletin within 7 days after
23 the deed is recorded in the county of jurisdiction. The
24 notice shall identify the real estate purchased, the names
25 of all parties to the contract, the value of the contract,
26 and the effective date of the contract.

1 (7) Contracts necessary to prepare for anticipated
2 litigation, enforcement actions, or investigations,
3 provided that the chief legal counsel to the Governor shall
4 give his or her prior approval when the procuring agency is
5 one subject to the jurisdiction of the Governor, and
6 provided that the chief legal counsel of any other
7 procuring entity subject to this Code shall give his or her
8 prior approval when the procuring entity is not one subject
9 to the jurisdiction of the Governor.

10 (8) Contracts for services to public institutions of
11 higher education ~~Northern Illinois University~~ by a person,
12 acting as an independent contractor, who is qualified by
13 education, experience, and technical ability and is
14 selected by negotiation for the purpose of providing
15 ~~non-credit~~ educational services and ~~service~~ activities or
16 products by means of specialized programs offered by the
17 university.

18 (9) Procurement expenditures by the Illinois
19 Conservation Foundation when only private funds are used.

20 (10) Procurement expenditures by the Illinois Health
21 Information Exchange Authority involving private funds
22 from the Health Information Exchange Fund. "Private funds"
23 means gifts, donations, and private grants.

24 (11) Contracts by or on behalf of public institutions
25 of higher education related to: events or activities where
26 the majority of funding is provided by event revenues;

1 events or activities for the benefit of third parties where
2 the majority of funding is provided by the third parties;
3 sponsorship activities or memberships in professional,
4 academic, or athletic organizations; events or activities
5 where the use of specific vendors is mandated or identified
6 by the organizing or sponsoring entity; purchase of library
7 materials; public broadcasting media rights; and purchase
8 of items for sale or rental.

9 (c) This Code does not apply to the electric power
10 procurement process provided for under Section 1-75 of the
11 Illinois Power Agency Act and Section 16-111.5 of the Public
12 Utilities Act.

13 (d) Except for Section 20-160 and Article 50 of this Code,
14 and as expressly required by Section 9.1 of the Illinois
15 Lottery Law, the provisions of this Code do not apply to the
16 procurement process provided for under Section 9.1 of the
17 Illinois Lottery Law.

18 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;
19 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff.
20 7-27-10.)

21 (30 ILCS 500/1-15.63 new)

22 Sec. 1-15.63. Public institution of higher education.
23 "Public institution of higher education" means the University
24 of Illinois; Southern Illinois University; Chicago State
25 University; Eastern Illinois University; Governors State

1 University; Illinois State University; Northeastern Illinois
2 University; Northern Illinois University; Western Illinois
3 University; and any other public universities now or hereafter
4 established or authorized by the General Assembly.

5 (30 ILCS 500/1-15.68)

6 Sec. 1-15.68. Purchase of care. "Purchase of care" means a
7 contract with a person for the furnishing of medical,
8 educational, psychiatric, vocational, rehabilitative, social,
9 or human services directly to a recipient of a State aid
10 program. "Purchase of care" also means a contract for the
11 furnishing of specialized materials, systems, services, or
12 protocol items for the operation of medical, dental,
13 veterinary, or similar facilities or clinics operated by the
14 University of Illinois or Southern Illinois University.

15 (Source: P.A. 90-572, eff. 2-6-98.)

16 (30 ILCS 500/1-35 new)

17 Sec. 1-35. Determinations by public institutions of higher
18 education. Determinations by a public institution of higher
19 education related to its ability to adequately fulfill its
20 academic and research missions shall be made in writing by the
21 institution.

22 (30 ILCS 500/20-25)

23 Sec. 20-25. Sole source procurements.

1 (a) In accordance with standards set by rule, contracts may
2 be awarded without use of the specified method of source
3 selection when there is only one economically feasible source
4 for the item. A State contract may not be awarded as a sole
5 source procurement unless approved by the chief procurement
6 officer. If any person files an objection to the notice of a
7 sole source procurement during the notice period required by
8 subsection (c), the chief procurement officer shall provide
9 ~~following~~ a public hearing at which the chief procurement
10 officer, State purchasing officer, or State agency presents ~~and~~
11 ~~purchasing agency present~~ written justification for the
12 procurement method. The Procurement Policy Board and the public
13 may present testimony.

14 (b) This Section may not be used as a basis for amending a
15 contract for professional or artistic services if the amendment
16 would result in an increase in the amount paid under the
17 contract of more than 5% of the initial award, or would extend
18 the contract term beyond the time reasonably needed for a
19 competitive procurement, not to exceed 2 months. This
20 subsection does not apply to the amendment of contracts by
21 public institutions of higher education if the institution
22 determines that failure to enter into any such amendment may
23 impair its ability to adequately fulfill its academic and
24 research missions.

25 (c) Notice of intent to enter into a sole source contract
26 shall be provided to the Procurement Policy Board and published

1 in the online electronic Bulletin at least 14 days before the
2 public hearing required in subsection (a). The notice shall
3 include the sole source procurement justification form
4 prescribed by the Board, a description of the item to be
5 procured, the intended sole source contractor, and the date,
6 time, and location of the public hearing. A copy of the notice
7 and all documents provided at the hearing shall be included in
8 the subsequent Procurement Bulletin.

9 (d) By August 1 each year, each chief procurement officer
10 shall file a report with the General Assembly identifying each
11 contract the officer sought under the sole source procurement
12 method and providing the justification given for seeking sole
13 source as the procurement method for each of those contracts.

14 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
15 for the effective date of changes made by P.A. 96-795); 96-920,
16 eff. 7-1-10.)

17 (30 ILCS 500/20-30)

18 Sec. 20-30. Emergency purchases.

19 (a) Conditions for use. In accordance with standards set by
20 rule, a purchasing agency may make emergency procurements
21 without competitive sealed bidding or prior notice when there
22 exists a threat to public health or public safety, or when
23 immediate expenditure is necessary for repairs to State
24 property in order to protect against further loss of or damage
25 to State property, to prevent or minimize serious disruption in

1 critical State services that affect health, safety, or
2 collection of substantial State revenues, or to ensure the
3 integrity of State records; provided, however, that the term of
4 the emergency purchase shall be limited to the time reasonably
5 needed for a competitive procurement, not to exceed 90 days. A
6 contract may be extended beyond 90 days if the chief
7 procurement officer determines additional time is necessary
8 and that the contract scope and duration are limited to the
9 emergency. If any person files an objection to the notice of
10 extension required by subsection (b), the chief procurement
11 officer shall provide a public hearing at which the chief
12 procurement officer, State purchasing officer, or State agency
13 presents written justification for the extension. The
14 Procurement Policy Board and members ~~Prior to execution of the~~
15 ~~extension, the chief procurement officer must hold a public~~
16 ~~hearing and provide written justification for all emergency~~
17 ~~contracts. Members~~ of the public may present testimony.
18 Emergency procurements shall be made with as much competition
19 as is practicable under the circumstances. A written
20 description of the basis for the emergency and reasons for the
21 selection of the particular contractor shall be included in the
22 contract file.

23 (b) Notice. Notice of all emergency procurements shall be
24 provided to the Procurement Policy Board and published in the
25 online electronic Bulletin no later than 3 business days after
26 the contract is awarded. Notice of intent to extend an

1 emergency contract shall be provided to the Procurement Policy
2 Board and published in the online electronic Bulletin at least
3 14 days before the public hearing. Notice shall include at
4 least a description of the need for the emergency purchase, the
5 contractor, and if applicable, the date, time, and location of
6 the public hearing. A copy of this notice and all documents
7 provided at the hearing shall be included in the subsequent
8 Procurement Bulletin. Before the next appropriate volume of the
9 Illinois Procurement Bulletin, the purchasing agency shall
10 publish in the Illinois Procurement Bulletin a copy of each
11 written description and reasons and the total cost of each
12 emergency procurement made during the previous month. When only
13 an estimate of the total cost is known at the time of
14 publication, the estimate shall be identified as an estimate
15 and published. When the actual total cost is determined, it
16 shall also be published in like manner before the 10th day of
17 the next succeeding month.

18 (c) Affidavits. A chief procurement officer making a
19 procurement under this Section shall file affidavits with the
20 Procurement Policy Board and the Auditor General within 10 days
21 after the procurement setting forth the amount expended, the
22 name of the contractor involved, and the conditions and
23 circumstances requiring the emergency procurement. When only
24 an estimate of the cost is available within 10 days after the
25 procurement, the actual cost shall be reported immediately
26 after it is determined. At the end of each fiscal quarter, the

1 Auditor General shall file with the Legislative Audit
2 Commission and the Governor a complete listing of all emergency
3 procurements reported during that fiscal quarter. The
4 Legislative Audit Commission shall review the emergency
5 procurements so reported and, in its annual reports, advise the
6 General Assembly of procurements that appear to constitute an
7 abuse of this Section.

8 (d) Quick purchases. The chief procurement officer may
9 promulgate rules extending the circumstances by which a
10 purchasing agency may make purchases under this Section,
11 including but not limited to the procurement of items available
12 at a discount for a limited period of time.

13 (e) The changes to this Section made by this amendatory Act
14 of the 96th General Assembly apply to procurements executed on
15 or after its effective date.

16 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
17 for the effective date of changes made by P.A. 96-795).)

18 (30 ILCS 500/20-43)

19 Sec. 20-43. Bidder or offeror authorized to do business in
20 Illinois. In addition to meeting any other requirement of law
21 or rule, a person (other than an individual acting as a sole
22 proprietor) may qualify as a bidder or offeror under this Code
23 only if the person is a legal entity authorized to do business
24 in Illinois prior to submitting the bid, offer, or proposal. A
25 public institution of higher education may consider a bid or

1 offer from a person not authorized to do business in Illinois
2 if the institution determines that failure to accept a bid or
3 offer may impair its ability to adequately fulfill its academic
4 and research missions and if such authorization to do business
5 in Illinois, if required, is obtained prior to execution of
6 contract.

7 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
8 for the effective date of P.A. 96-795).)

9 (30 ILCS 500/20-90)

10 Sec. 20-90. Foreign country procurements. Procurements to
11 meet the needs of State offices located in foreign countries,
12 procurements related to higher education program activities
13 that operate in foreign countries, and procurements made by a
14 public institution of higher education from a foreign entity
15 that does not maintain an office in the United States shall
16 comply with the provisions of this Code to the extent
17 practical.

18 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

19 (30 ILCS 500/25-15)

20 Sec. 25-15. Method of source selection.

21 (a) Competitive sealed bidding. Except as provided in
22 subsection (b) and Sections 20-20, 20-25, and 20-30, all State
23 contracts for supplies and services shall be awarded by
24 competitive sealed bidding in accordance with Section 20-10.

1 (b) Other methods. Unless otherwise provided by law, the
2 ~~The~~ chief procurement officer may establish by rule (i)
3 categories of purchases, including non-governmental joint
4 purchases, that may be made without competitive sealed bidding
5 and (ii) the most competitive alternate method of source
6 selection that shall be used for each category of purchase.

7 (c) Academic and research mission needs of public
8 institutions of higher education. A public institution of
9 higher education may accept modified vendor qualifications,
10 including applicable registrations, certifications,
11 disclosures, and other requirements if it determines in writing
12 that failure to accept such modified qualifications may impair
13 its ability to adequately fulfill its academic and research
14 missions.

15 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

16 (30 ILCS 500/50-39)

17 Sec. 50-39. Procurement communications reporting
18 requirement.

19 (a) Any written or oral communication that (i) is received
20 by a State employee who, by nature of his or her duties has the
21 authority to participate personally and substantially in the
22 award of a State contract and (ii) ~~that~~ imparts or requests
23 material information or makes a material argument regarding
24 potential action concerning a procurement matter, including,
25 but not limited to, an application, a contract, or a project,

1 shall be reported to the Procurement Policy Board. When
2 multiple State employees are party to the same communication,
3 only one need report. These communications do not include the
4 following: (i) statements by a person publicly made in a public
5 forum; (ii) statements regarding matters of procedure and
6 practice, such as format, the number of copies required, the
7 manner of filing, and the status of a matter; ~~and~~ (iii)
8 statements made by a State employee of the agency to the agency
9 head or other employees of that agency or to the employees of
10 the Executive Ethics Commission; (iv) statements made by an
11 employee of a State agency or a public institution of higher
12 education concerning cooperative procurement activities among
13 or between State agencies or public institutions of higher
14 education and any institutional cooperatives, organizations,
15 and entities where a public institution of higher education is
16 a member; (v) communications related to grants, research, or
17 sponsored programs administered by public institutions of
18 higher education; (vi) communications regarding transactions
19 less than the small purchase amount set forth in this Code for
20 procurements made on behalf of public institutions of higher
21 education; and (vii) proprietary information. The provisions
22 of this Section shall not apply to communications regarding the
23 administration and implementation of an existing contract,
24 except communications regarding change orders or the renewal or
25 extension of a contract.

26 (b) The report required by subsection (a) shall be

1 submitted monthly and include at least the following: (i) the
2 date and time of each communication; (ii) the identity of each
3 person from whom the written or oral communication was
4 received, the individual or entity represented by that person,
5 and any action the person requested or recommended; (iii) the
6 identity and job title of the person to whom each communication
7 was made; (iv) if a response is made, the identity and job
8 title of the person making each response; (v) a detailed
9 summary of the points made by each person involved in the
10 communication; (vi) the duration of the communication; (vii)
11 the location or locations of all persons involved in the
12 communication and, if the communication occurred by telephone,
13 the telephone numbers for the callers and recipients of the
14 communication; and (viii) any other pertinent information.

15 (c) Additionally, when an oral communication made by a
16 person required to register under the Lobbyist Registration Act
17 is received by a State employee that is covered under this
18 Section, all individuals who initiate or participate in the
19 oral communication shall submit a written report to that State
20 employee that memorializes the communication and includes, but
21 is not limited to, the items listed in subsection (b).

22 (d) The Procurement Policy Board shall make each report
23 submitted pursuant to this Section available on its website
24 within 7 days after its receipt of the report. The Procurement
25 Policy Board may promulgate rules to ensure compliance with
26 this Section.

1 (e) The reporting requirements shall also be conveyed
2 through ethics training under the State ~~Employees and~~ Officials
3 and Employees Ethics Act. An employee who knowingly and
4 intentionally violates this Section may ~~shall~~ be subject to
5 suspension or discharge. The Executive Ethics Commission shall
6 promulgate rules, including emergency rules, to implement this
7 Section.

8 (f) This Section becomes operative on January 1, 2011.
9 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
10 for the effective date of changes made by P.A. 96-795); 96-920,
11 eff. 7-1-10; revised 9-27-10.)

12 Section 10. The Governmental Joint Purchasing Act is
13 amended by changing Sections 2, 3, and 4 as follows:

14 (30 ILCS 525/2) (from Ch. 85, par. 1602)

15 Sec. 2. Joint purchasing authority.

16 (a) Any governmental unit may purchase personal property,
17 supplies and services jointly with one or more other
18 governmental units. All such joint purchases shall be by
19 competitive selection ~~bids~~ as provided in Section 4 of this
20 Act. The provisions of any other acts under which a
21 governmental unit operates which refer to purchases and
22 procedures in connection therewith shall be superseded by the
23 provisions of this Act when the governmental units are
24 exercising the joint powers created by this Act.

1 (a-5) The Department of Central Management Services may
2 purchase personal property, supplies, and services jointly
3 with a governmental entity of another state or with a
4 consortium of governmental entities of one or more other
5 states. Subject to provisions of the joint purchasing
6 solicitation, the Department of Central Management Services
7 may designate the resulting contract as available to
8 governmental units in Illinois.

9 (b) Any not-for-profit agency that qualifies under Section
10 45-35 of the Illinois Procurement Code and that either (1) acts
11 pursuant to a board established by or controlled by a unit of
12 local government or (2) receives grant funds from the State or
13 from a unit of local government, shall be eligible to
14 participate in contracts established by the State.

15 (c) Illinois public institutions of higher education may
16 purchase personal property, supplies, and services jointly
17 with a governmental, educational, medical, research, or
18 similar entity, or with a consortium of such entities, where
19 such joint purchasing is in the best interests of the
20 institution. If a public institution of higher education is not
21 the lead party to the joint purchase, Sections 3 and 4 are not
22 applicable.

23 (Source: P.A. 96-584, eff. 1-1-10.)

24 (30 ILCS 525/3) (from Ch. 85, par. 1603)

25 Sec. 3. Conduct of competitive selection ~~bid letting~~.

1 Under any agreement of governmental units that desire to make
2 joint purchases pursuant to subsection (a) of Section 2, one of
3 the governmental units shall conduct the competitive selection
4 process ~~letting of bids~~. Where the State of Illinois is a party
5 to the joint purchase agreement, the Department of Central
6 Management Services or designated public institution of higher
7 education shall conduct the competitive selection process
8 ~~letting of bids~~. Expenses of such competitive selection
9 processes ~~bid-letting~~ may be shared by the participating
10 governmental units in proportion to the amount of personal
11 property, supplies or services each unit purchases.

12 When the State of Illinois is the lead ~~a~~ party to the joint
13 purchase agreement pursuant to subsection (a) of Section 2, the
14 acceptance of competitive selection process responses ~~bids~~
15 shall be in accordance with the Illinois Procurement Code and
16 rules promulgated under that Code. When the State of Illinois
17 is not the lead ~~a~~ party to the joint purchase agreement, the
18 acceptance of competitive selection process responses ~~bids~~
19 shall be governed by the agreement.

20 When the State of Illinois is a party to a joint purchase
21 agreement pursuant to subsection (a-5) of Section 2, the State
22 governmental unit may act as the lead procurement entity ~~state~~
23 or as a participant state. When the State of Illinois
24 procurement entity is the lead procurement entity ~~state~~, all
25 such joint purchases shall be conducted in accordance with the
26 Illinois Procurement Code. When Illinois is a participant

1 state, all such joint purchases shall be conducted in
2 accordance with the procurement laws of the procurement
3 entity's lead state; provided that all such joint procurements
4 must be by competitive selection process ~~sealed bid~~. For those
5 contracts where the governmental unit is the lead procurement
6 entity, all ~~All~~ resulting awards shall be published in the
7 appropriate volume of the Illinois Procurement Bulletin as may
8 be required by Illinois law governing publication of the
9 solicitation, protest, and award of Illinois State contracts.
10 Contracts resulting from a joint purchase shall contain all
11 provisions required by Illinois law and rule to the extent
12 practical.

13 The personal property, supplies or services involved shall
14 be distributed or rendered directly to each governmental unit
15 taking part in the purchase. The person selling the personal
16 property, supplies or services may bill each governmental unit
17 separately for its proportionate share of the cost of the
18 personal property, supplies or services purchased.

19 The credit or liability of each governmental unit shall
20 remain separate and distinct. Disputes between bidders and
21 governmental units shall be resolved between the immediate
22 parties.

23 (Source: P.A. 96-584, eff. 1-1-10.)

24 (30 ILCS 525/4) (from Ch. 85, par. 1604)

25 Sec. 4. Bids and proposals. The purchases of all personal

1 property, supplies and services under this Act shall be based
2 on competitive, sealed bids and proposals. For purchases
3 pursuant to subsection (a) of Section 2, bids or proposals
4 shall be solicited by public notice inserted at least once in a
5 newspaper of general circulation in one of the counties where
6 the materials are to be used and at least 5 calendar days
7 before the final date of submitting bids or proposals. Where
8 the State of Illinois is a party to the joint purchase
9 agreement, public notice of the seeking of ~~soliciting the~~ bids
10 or proposals shall be publicized ~~inserted~~ in the appropriate
11 volume of the Illinois Procurement Bulletin. Such notice shall
12 include a general description of the personal property,
13 supplies or services to be purchased and shall state where all
14 blanks and specifications may be obtained and the time and
15 place for the opening of bids or proposals. The governmental
16 unit conducting the competitive selection process ~~bid letting~~
17 may also solicit sealed bids or proposals by sending requests
18 by mail to prospective suppliers and by posting notices on a
19 public bulletin board in its office.

20 All purchases, orders or contracts shall be awarded to the
21 lowest responsible bidder or proposer, taking into
22 consideration the qualities of the articles or services
23 supplied, their conformity with the specifications, their
24 suitability to the requirements of the participating
25 governmental units and the delivery terms.

26 Where the State of Illinois is not a party, all bids or

1 proposals may be rejected and new bids or proposals solicited
2 if one or more of the participating governmental units believes
3 the public interest may be served thereby. Each bid or
4 proposal, with the name of the bidder, shall be entered on a
5 record, which record with the successful bid or proposal
6 indicated thereon shall, after the award of the purchase or
7 order or contract, be open to public inspection. A copy of all
8 contracts shall be filed with the purchasing agent or clerk or
9 secretary of each participating governmental unit.

10 (Source: P.A. 96-584, eff. 1-1-10.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."